

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

SANQUIRNETTA McCRAY-MARTIN,)
Plaintiff,)
v.)
ELI LILLY AND COMPANY; and)
YOLANDA BROWN, Sales)
Representative, and FICTITIOUS)
DEFENDANTS A, B, C, D, E, and F,)
being those persons, sales representatives,)
firms or corporations, whose fraud,)
scheme to defraud, negligence, and/or)
other wrongful conduct caused or)
contributed to the Plaintiff's injuries and)
damages, and whose true names and)
identities are presently unknown to the)
Plaintiff but will be substituted by)
amendment when ascertained,)
Defendants.

CASE NO.: 2:05-cv-01048

MOTION TO STRIKE

**ELI LILLY AND COMPANY'S MOTION TO STRIKE
PLAINTIFF'S SUPPLEMENTAL BRIEF
IN SUPPORT OF MOTIONS TO RECONSIDER AND MOTION TO REMAND**

Defendant Eli Lilly and Company ("Lilly"), hereby moves the Court to strike Plaintiff's Supplemental Brief in Support of Motions to Reconsider and Motion to Remand as violative of the Court's Order dated March 16, 2006, requesting briefs regarding Plaintiff's motion to reconsider the Court's Stay Order dated November 22, 2005. As grounds for this motion, Lilly states as follows:

1. On March 15, 2006, Plaintiff filed a Motion to Reconsider the Court's Order to Stay this Case Pending Transfer to the Zyprexa MDL and to Consider Plaintiff's Motion to Remand.

2. On March 16, 2006, the Court set Plaintiff's Motion to Reconsider for submission, without oral argument, on March 20, 2006.

3. Pursuant to the Court's Order, Lilly filed its Response in Opposition to Plaintiff's Motion to Reconsider on March 20, 2006.

4. Later in the afternoon of March 20, 2006, Plaintiff filed a Supplemental Brief in Support of Motions to Reconsider and Motion to Remand.

5. Plaintiff's Supplemental Brief is nothing more than a re-argument of his Motion to Remand, for which he has not been granted leave to submit.

6. Plaintiff's Supplemental Brief utterly ignores the Motion to Reconsider that the Court set for submission in its Order of March 16.

7. The Court's deadline for submission of briefs regarding the remand issue was November 18, 2005. (Order dated Nov. 8, 2005, Doc # 8.) Because there has been no subsequent Order from the Court allowing for additional briefing on the issue of Plaintiff's Motion to Remand, Plaintiff's Supplemental Brief should be stricken as violative of the Court's Orders.

8. Additionally, because this case is currently stayed (Order dated Nov. 22, 2005, Doc. # 11), the Plaintiff's Motion to Remand is not ripe for consideration. Moreover, all of the issues in Plaintiff's Supplemental Brief can, should, and will be addressed by the MDL court, which is set to make its transfer decision on March 30, 2006.

WHEREFORE, defendant Eli Lilly and Company respectfully requests that the Court strike Plaintiff's Supplement Brief in Support of Motions to Reconsider and Motion to Remand.

s/ Alan D. Mathis

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OF COUNSEL

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the above and foregoing with the Clerk of the Court on March 21, 2006, using the CM/ECF system, which will send notification of such filing to the following:

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s/ Alan D. Mathis
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